

CS FOR HOUSE BILL NO. 246(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/4/22

Referred: Rules

Sponsor(s): REPRESENTATIVES KREISS-TOMKINS, Drummond, Tarr, Schrage, Wool, Snyder, Tuck, Spohnholz, Josephson, Nelson

SENATORS Kawasaki, Begich

A BILL

FOR AN ACT ENTITLED

1 **"An Act restricting the release of certain records of convictions; relating to misconduct**
2 **involving marijuana by persons 18, 19, or 20 years of age; amending Rule 17(h), Alaska**
3 **Rules of Minor Offense Procedure; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 LEGISLATIVE INTENT. It is the intent of the legislature to reduce barriers to
8 employment for people who have been convicted of low-level marijuana possession crimes
9 that would be legal on January 1, 2023. By protecting records of those low-level crimes from
10 certain types of criminal history background checks, it is the legislature's intent to increase the
11 likelihood that people convicted of those low-level crimes will become contributing members
12 of society.

13 * **Sec. 2.** AS 11.71.060(a) is amended to read:

14 (a) Except **for minor misconduct involving marijuana under AS 17.38.055,**

or as authorized in AS 17.30 or AS 17.38, a person commits the crime of misconduct involving a controlled substance in the sixth degree if the person

(1) uses or displays any amount of a schedule VIA controlled substance;

(2) possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of

(A) less than one ounce containing a schedule VIA controlled substance;

(B) [REPEALED]

(3) refuses entry into a premise for an inspection authorized under AS 17.30.

* **Sec. 3.** AS 12.62.160(b) is amended to read:

(b) Subject to the requirements of this section, and except as otherwise limited or prohibited by other provision of law or court rule, criminal justice information

(1) may be provided to a person when, and only to the extent, necessary to avoid imminent danger to life or extensive damage to property;

(2) may be provided to a person to the extent required by applicable court rules or under an order of a court of this state, another state, or the United States;

(3) may be provided to a person if the information is commonly or traditionally provided by criminal justice agencies in order to identify, locate, or apprehend fugitives or wanted persons or to recover stolen property, or for public reporting of recent arrests, charges, and other criminal justice activity;

(4) may be provided to a criminal justice agency for a criminal justice activity;

(5) may be provided to a government agency when necessary for enforcement of or for a purpose specifically authorized by state or federal law;

(6) may be provided to a person specifically authorized by a state or federal law to receive that information;

(7) in aggregate form may be released to a qualified person, as determined by the agency, for criminal justice research, subject to written conditions that assure the security of the information and the privacy of individuals to whom the

1 information relates;

2 (8) may be provided to a person for any purpose, except that
 3 information may not be released if the information is nonconviction information, [OR]
 4 correctional treatment information, or criminal justice information as described in
 5 (f) of this section;

6 (9) including information relating to a serious offense, may be
 7 provided to an interested person if the information is requested for the purpose of
 8 determining whether to grant a person supervisory or disciplinary power over a minor
 9 or dependent adult; and

10 (10) may be provided to the person who is the subject of the
 11 information.

12 * **Sec. 4.** AS 12.62.160 is amended by adding a new subsection to read:

13 (f) An agency may not release criminal justice information of a criminal case
 14 in which the defendant

15 (1) was convicted under AS 11.71.060, or a municipal ordinance with
 16 similar elements, for possession of less than one ounce of a schedule VIA controlled
 17 substance;

18 (2) was 21 years of age or older at the time of commission of the
 19 offense;

20 (3) was not convicted of any other criminal charges in that case; and

21 (4) requests that the agency not release the records.

22 * **Sec. 5.** AS 17.38 is amended by adding a new section to read:

23 **Sec. 17.38.055. Misconduct involving marijuana by persons 18, 19, or 20**
 24 **years of age.** (a) A person 18, 19, or 20 years of age commits the offense of minor
 25 misconduct involving marijuana if the person knowingly uses or displays any amount
 26 of marijuana or possesses less than one ounce of marijuana.

27 (b) A violation of this section must be charged and filed with the court as a
 28 separate case and may not be combined or joined with any other minor offense or
 29 criminal charge in one action at the time of filing.

30 (c) Minor misconduct involving marijuana is a violation punishable by a fine
 31 of not less than

1 (1) \$125 for a first violation; or

2 (2) \$250 if the person has previously been convicted under this section.

3 * **Sec. 6.** AS 17.38.370 is amended to read:

4 **Sec. 17.38.370. Bail forfeiture for certain offenses.** The supreme court shall
5 establish by rule or order a schedule of bail amounts that may be forfeited without
6 court appearance for a violation of AS 17.38.030 - 17.38.055 [AS 17.38.030 -
7 17.38.050].

8 * **Sec. 7.** AS 22.35 is amended by adding a new section to read:

9 **Sec. 22.35.040. Records concerning criminal cases for marijuana**
10 **possession.** The Alaska Court System may not publish on a publicly available Internet
11 website the court records of a

12 (1) criminal case in which the defendant

13 (A) was convicted under AS 11.71.060, or a municipal
14 ordinance with similar elements, for possession of less than one ounce of a
15 schedule VIA controlled substance;

16 (B) was 21 years of age or older at the time of commission of
17 the offense; and

18 (C) was not convicted of any other criminal charges in that
19 case; or

20 (2) violation of AS 17.38.055, or a municipal ordinance with similar
21 elements, if the violation was charged separately and was not joined with any other
22 minor offense or criminal charge at the time of filing.

23 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 **DIRECT COURT RULE AMENDMENT.** Rule 17(h), Alaska Rules of Minor
26 Offense Procedure, is amended to read:

27 (h) **Joinder Limits.** A prosecutor may not join a violation of AS 04.16.049 or
28 04.16.050, AS 17.38.055, or a similar municipal ordinance with a related criminal
29 charge.

30 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 PRIOR COURT RECORDS. The Alaska Court System shall, to the extent practicable,
2 remove court records existing before the effective date of this Act that meet the requirements
3 of AS 22.35.040(1), enacted by sec. 7 of this Act, from the court system's publicly available
4 Internet website.

5 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 APPLICABILITY. AS 11.71.060(a), as amended by sec. 2 of this Act, AS 17.38.055,
8 enacted by sec. 5 of this Act, and AS 17.38.370, as amended by sec. 6 of this Act, apply to
9 offenses committed on or after the effective date of this Act.

10 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 CONDITIONAL EFFECT. AS 17.38.055(b), enacted by sec. 5 of this Act, takes
13 effect only if sec. 8 of this Act receives the two-thirds majority vote of each house required by
14 art. IV, sec. 15, Constitution of the State of Alaska.

15 * **Sec. 12.** This Act takes effect January 1, 2023.